

# U.S. Sentencing Commission Special Post-Booker Coding Project



## Information for All Cases

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Cases Sentenced Subsequent to *U.S. v. Booker*  
(Data Extraction as of December 21, 2005)

Prepared: January 5, 2006



U.S. SENTENCING COMMISSION  
SPECIAL POST-BOOKER CODING PROJECT  
DATA EXTRACTION DATE: DECEMBER 21, 2005

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# NATIONAL COMPARISON OF SENTENCE IMPOSED AND POSITION RELATIVE TO THE GUIDELINE RANGE

Cases Sentenced Subsequent to *U.S. v. Booker* with Data Available to USSC on December 21, 2005

	N	%
<b>TOTAL<sup>1</sup></b>	<b>54,624</b>	<b>100.0</b>
<b>WITHIN GUIDELINE RANGE</b>	<b>33,418</b>	<b>61.2</b>
<b>DEPARTURE ABOVE GUIDELINE RANGE</b>	<b>140</b>	<b>0.3</b>
Upward Departure from the Guideline Range <sup>2</sup>	98	0.2
Upward Departure with <i>Booker</i> /18 U.S.C. § 3553 <sup>3</sup>	42	0.1
<b>OTHERWISE ABOVE THE GUIDELINE RANGE</b>	<b>758</b>	<b>1.4</b>
Above the Range with <i>Booker</i> /18 U.S.C. § 3553 <sup>4</sup>	387	0.7
All Remaining Cases Above the Guideline Range <sup>5</sup>	371	0.7
<b>GOVERNMENT SPONSORED BELOW RANGE</b>	<b>13,321</b>	<b>24.4</b>
§5K1.1 Substantial Assistance Departure	8,093	14.8
§5K3.1 Early Disposition Program Departure	3,700	6.8
Government-Sponsored Departure <sup>6</sup>	1,528	2.8
<b>DEPARTURE BELOW GUIDELINE RANGE</b>	<b>1,772</b>	<b>3.2</b>
Downward Departure from the Guideline Range <sup>2</sup>	1,228	2.2
Downward Departure with <i>Booker</i> /18 U.S.C. § 3553 <sup>3</sup>	544	1.0
<b>OTHERWISE BELOW THE GUIDELINE RANGE</b>	<b>5,215</b>	<b>9.5</b>
Below the Range with <i>Booker</i> /18 U.S.C. § 3553 <sup>4</sup>	3,421	6.3
All Remaining Cases Below the Guideline Range <sup>5</sup>	1,794	3.3

<sup>1</sup>This table reflects the 56,086 cases sentenced subsequent to the *U.S. v. Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by December 21, 2005. Of this total, there are 1,462 cases excluded for one of two general reasons. Some excluded cases involve certain Class A misdemeanors or other offenses which do not reference a sentencing guideline. Other excluded cases have information missing from the submitted documents that prevents the comparison of the sentence and the guideline range. As missing documents are received, subsequent U.S. Sentencing Commission data releases will incorporate the new information.

<sup>2</sup>All cases with imposed sentences outside of the guideline range and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual*.

<sup>3</sup>All cases with imposed sentences outside of the guideline range citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual*, and additionally mentioning either *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for a sentence outside of the guideline range.

<sup>4</sup>All cases with imposed sentences outside of the guideline range mentioning only *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for a sentence outside of the guideline range.

<sup>5</sup>Cases with imposed sentences outside of the guideline range that do not fall into the three previous categories. Based on the information submitted on the Statement of Reasons, these cases cannot be classified as a guideline departure, or as a sentence outside the guideline range pursuant to *Booker*/18 U.S.C. § 3553. This category includes cases which cite departure reasons that are not affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual* and cases which do not provide any reason for the sentence outside of the guideline range.

<sup>6</sup>Cases with a reason for departure indicating that the prosecution initiates, proposes, or stipulates to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant.

SOURCE: U.S. Sentencing Commission, Special Post-*Booker* Coding Project, (data extraction on December 21, 2005; table prepared on January 5, 2006). Summary numbers may not add up to their component parts due to rounding.

# MOST FREQUENTLY APPLIED GUIDELINES: COMPARISON OF SENTENCE IMPOSED AND POSITION RELATIVE TO THE GUIDELINE RANGE

Cases Sentenced Subsequent to *US v. Booker* with Data Available to USSC on December 21, 2005

	Four Most Frequently Applied Primary Guidelines									
	All Cases		§2D1.1 Drug Trafficking		§2L1.2 Unlawful Entry		§2K2.1 Firearms		§2B1.1 Theft and Fraud	
			N	%	N	%	N	%	N	%
<b>TOTAL<sup>1</sup></b>	<b>54,624</b>	<b>100.0</b>	<b>19,216</b>	<b>100.0</b>	<b>8,481</b>	<b>100.0</b>	<b>5,498</b>	<b>100.0</b>	<b>5,657</b>	<b>100.0</b>
<b>WITHIN GUIDELINE RANGE</b>	<b>33,418</b>	<b>61.2</b>	<b>10,294</b>	<b>53.6</b>	<b>4,759</b>	<b>56.1</b>	<b>3,842</b>	<b>69.9</b>	<b>3,999</b>	<b>70.7</b>
<b>DEPARTURE ABOVE GUIDELINE</b>	<b>140</b>	<b>0.3</b>	<b>14</b>	<b>0.1</b>	<b>12</b>	<b>0.1</b>	<b>21</b>	<b>0.4</b>	<b>19</b>	<b>0.3</b>
Upward Departure from the Guideline Range <sup>2</sup>	98	0.2	11	0.1	6	0.1	16	0.3	11	0.2
Upward Departure with Booker/18 USC §3553 <sup>3</sup>	42	0.1	3	0.0	6	0.1	5	0.1	8	0.1
<b>OTHERWISE ABOVE THE RANGE</b>	<b>758</b>	<b>1.4</b>	<b>114</b>	<b>0.6</b>	<b>73</b>	<b>0.9</b>	<b>114</b>	<b>2.1</b>	<b>147</b>	<b>2.6</b>
Above the Range with Booker/18 USC §3553 <sup>4</sup>	387	0.7	59	0.3	43	0.5	52	1.0	75	1.3
All Remaining Cases Above the Guideline Range <sup>5</sup>	371	0.7	55	0.3	30	0.4	62	1.1	72	1.3
<b>GOVERNMENT BELOW GUIDELINE</b>	<b>13,321</b>	<b>24.4</b>	<b>6,315</b>	<b>32.9</b>	<b>2,807</b>	<b>33.1</b>	<b>689</b>	<b>12.5</b>	<b>681</b>	<b>12.0</b>
§5K1.1 Substantial Assistance Departure	8,093	14.8	5,003	26.0	58	0.7	525	9.5	582	10.3
§5K3.1 Early Disposition Program Departure	3,700	6.8	776	4.0	2,471	29.1	26	0.5	8	0.1
Government-Sponsored Departure <sup>6</sup>	1,528	2.8	536	2.8	278	3.3	138	2.5	91	1.6
<b>DEPARTURE BELOW GUIDELINE</b>	<b>1,772</b>	<b>3.2</b>	<b>592</b>	<b>3.1</b>	<b>275</b>	<b>3.2</b>	<b>224</b>	<b>4.1</b>	<b>186</b>	<b>3.3</b>
Downward Departure from the Guideline Range <sup>2</sup>	1,228	2.2	406	2.1	214	2.5	142	2.6	128	2.3
Downward Departure with Booker/18 USC §3553 <sup>3</sup>	544	1.0	186	1.0	61	0.7	82	1.5	58	1.0
<b>OTHERWISE BELOW THE RANGE</b>	<b>5,215</b>	<b>9.5</b>	<b>1,887</b>	<b>9.8</b>	<b>555</b>	<b>6.5</b>	<b>608</b>	<b>11.1</b>	<b>625</b>	<b>11.0</b>
Below the Range with Booker/18 USC §3553 <sup>4</sup>	3,421	6.3	1,293	6.7	350	4.1	408	7.4	365	6.5
All Remaining Cases Below the Guideline Range <sup>5</sup>	1,794	3.3	594	3.1	205	2.4	200	3.6	260	4.6

<sup>1</sup>This table reflects the 56,086 cases sentenced subsequent to the *US v. Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by December 21, 2005. Of this total, there are 1,462 cases excluded for one of two general reasons. Some excluded cases involve certain Class A misdemeanors or other offenses which do not reference a sentencing guideline. Other excluded cases have information missing from the submitted documents that prevents the comparison of the sentence and the guideline range. As missing documents are received, subsequent U.S. Sentencing Commission data releases will incorporate the new information.

<sup>2</sup>All cases with imposed sentences outside of the guideline range and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual*.

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<sup>4</sup>All cases with imposed sentences outside of the guideline range mentioning only *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

<sup>5</sup>Cases with imposed sentences outside of the guideline range that do not fall into the three previous categories. Based on the information submitted on the Statement of Reasons, these cases cannot be classified as a guideline departure, or as a sentence outside the guideline range pursuant to Booker/18 USC §3553. This category includes cases which cite departure reasons that are *not* affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual* and cases which do not provide any reason for the sentence outside of the guideline range.

<sup>6</sup>Cases with a reason for departure indicating that the prosecution initiates, proposes, or stipulates to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant.

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, (data extraction on December 21, 2005; table prepared on January 5, 2006). Cases with multiple guideline calculations are classified by the guideline with the highest offense level. Summary numbers may not add up to their component parts due to rounding.

**OFFENDERS SENTENCED FOR EACH CHAPTER TWO GUIDELINE<sup>1</sup>**  
**Special Post-Booker Coding Project (Data Extracted December 21, 2005)**

Guideline	As Primary Guideline		As Any Guideline		Guideline	As Primary Guideline		As Any Guideline	
	n	%	n	%		n	%	n	%
2A1.1	124	0.2	133	0.2	2D1.7	10	0.0	11	0.0
2A1.2	31	0.1	35	0.1	2D1.8	50	0.1	87	0.2
2A1.3	15	0.0	15	0.0	2D1.9	0	0.0	0	0.0
2A1.4	30	0.1	30	0.1	2D1.10	17	0.0	18	0.0
2A1.5	13	0.0	34	0.1	2D1.11	149	0.3	166	0.3
2A2.1	42	0.1	69	0.1	2D1.12	25	0.0	37	0.1
2A2.2	283	0.5	328	0.6	2D1.13	0	0.0	0	0.0
2A2.3	27	0.1	31	0.1	2D2.1	292	0.6	361	0.6
2A2.4	108	0.2	125	0.2	2D2.2	30	0.1	35	0.1
2A3.1	123	0.2	129	0.2	2D2.3	1	0.0	1	0.0
2A3.2	119	0.2	138	0.2	2D3.1	3	0.0	3	0.0
2A3.3	5	0.0	5	0.0	2D3.2	0	0.0	0	0.0
2A3.4	29	0.1	40	0.1	2D3.3	0	0.0	0	0.0
2A4.1	47	0.1	63	0.1	2D3.4	0	0.0	0	0.0
2A4.2	1	0.0	1	0.0	2D3.5	0	0.0	0	0.0
2A5.1	0	0.0	1	0.0	2E1.1	24	0.0	86	0.1
2A5.2	10	0.0	10	0.0	2E1.2	14	0.0	72	0.1
2A5.3	0	0.0	0	0.0	2E1.3	0	0.0	16	0.0
2A6.1	128	0.2	134	0.2	2E1.4	11	0.0	17	0.0
2A6.2	6	0.0	12	0.0	2E1.5	0	0.0	0	0.0
2B1.1	5,772	10.9	6,290	10.9	2E2.1	27	0.1	34	0.1
2B1.2	0	0.0	0	0.0	2E3.1	88	0.2	107	0.2
2B1.3	5	0.0	5	0.0	2E3.2	0	0.0	0	0.0
2B1.4	5	0.0	5	0.0	2E3.3	0	0.0	0	0.0
2B1.5	8	0.0	8	0.0	2E4.1	20	0.0	25	0.0
2B2.1	56	0.1	67	0.1	2E5.1	10	0.0	14	0.0
2B2.2	0	0.0	0	0.0	2E5.2	0	0.0	0	0.0
2B2.3	2	0.0	2	0.0	2E5.3	3	0.0	7	0.0
2B3.1	1,518	2.9	1,610	2.8	2E5.4	0	0.0	0	0.0
2B3.2	35	0.1	61	0.1	2E5.5	0	0.0	0	0.0
2B3.3	12	0.0	16	0.0	2E5.6	0	0.0	0	0.0
2B4.1	45	0.1	47	0.1	2F1.1	1,003	1.9	1,062	1.8
2B5.1	440	0.8	472	0.8	2F1.2	2	0.0	3	0.0
2B5.2	0	0.0	0	0.0	2G1.1	58	0.1	104	0.2
2B5.3	112	0.2	121	0.2	2G1.2	1	0.0	1	0.0
2B5.4	0	0.0	0	0.0	2G1.3	43	0.1	47	0.1
2B6.1	12	0.0	12	0.0	2G2.1	87	0.2	103	0.2
2C1.1	194	0.4	215	0.4	2G2.2	405	0.8	421	0.7
2C1.2	17	0.0	17	0.0	2G2.3	0	0.0	0	0.0
2C1.3	10	0.0	10	0.0	2G2.4	349	0.7	388	0.7
2C1.4	1	0.0	1	0.0	2G2.5	1	0.0	1	0.0
2C1.5	0	0.0	0	0.0	2G3.1	12	0.0	16	0.0
2C1.6	0	0.0	0	0.0	2G3.2	0	0.0	0	0.0
2C1.7	33	0.1	36	0.1	2H1.1	46	0.1	52	0.1
2C1.8	1	0.0	2	0.0	2H1.2	0	0.0	0	0.0
2D1.1	19,533	36.9	20,477	35.6	2H1.3	0	0.0	0	0.0
2D1.2	287	0.5	298	0.5	2H1.4	0	0.0	0	0.0
2D1.3	0	0.0	0	0.0	2H1.5	0	0.0	0	0.0
2D1.4	0	0.0	0	0.0	2H2.1	7	0.0	7	0.0
2D1.5	16	0.0	21	0.0	2H3.1	6	0.0	8	0.0
2D1.6	27	0.1	145	0.3	2H3.2	3	0.0	3	0.0

(continued)

Guideline	As Primary Guideline		As Any Guideline		Guideline	As Primary Guideline		As Any Guideline	
	n	%	n	%		n	%	n	%
2H3.3	10	0.0	14	0.0	2M4.1	0	0.0	0	0.0
2H4.1	7	0.0	7	0.0	2M5.1	7	0.0	7	0.0
2H4.2	0	0.0	0	0.0	2M5.2	20	0.0	22	0.0
2J1.1	0	0.0	18	0.0	2M5.3	4	0.0	7	0.0
2J1.2	94	0.2	129	0.2	2M6.1	13	0.0	13	0.0
2J1.3	51	0.1	74	0.1	2M6.2	1	0.0	1	0.0
2J1.4	13	0.0	25	0.0	2N1.1	2	0.0	2	0.0
2J1.5	1	0.0	1	0.0	2N1.2	2	0.0	2	0.0
2J1.6	44	0.1	58	0.1	2N1.3	0	0.0	0	0.0
2J1.7	113	0.2	119	0.2	2N2.1	28	0.1	53	0.1
2J1.8	0	0.0	0	0.0	2N3.1	1	0.0	3	0.0
2J1.9	0	0.0	0	0.0	2P1.1	185	0.3	207	0.4
2K1.1	4	0.0	5	0.0	2P1.2	66	0.1	86	0.1
2K1.2	0	0.0	0	0.0	2P1.3	12	0.0	12	0.0
2K1.3	40	0.1	42	0.1	2P1.4	0	0.0	0	0.0
2K1.4	49	0.1	68	0.1	2Q1.1	0	0.0	0	0.0
2K1.5	12	0.0	12	0.0	2Q1.2	39	0.1	41	0.1
2K1.6	1	0.0	1	0.0	2Q1.3	34	0.1	34	0.1
2K1.7	0	0.0	0	0.0	2Q1.4	0	0.0	0	0.0
2K2.1	5,552	10.5	5,879	10.2	2Q1.5	0	0.0	0	0.0
2K2.2	0	0.0	0	0.0	2Q1.6	0	0.0	0	0.0
2K2.3	0	0.0	0	0.0	2Q2.1	83	0.2	86	0.1
2K2.4	1	0.0	1	0.0	2Q2.2	0	0.0	0	0.0
2K2.5	9	0.0	10	0.0	2R1.1	14	0.0	16	0.0
2K2.6	2	0.0	4	0.0	2S1.1	806	1.5	885	1.5
2K3.1	0	0.0	0	0.0	2S1.2	18	0.0	24	0.0
2L1.1	2,567	4.9	2,637	4.6	2S1.3	217	0.4	244	0.4
2L1.2	8,563	16.2	8,676	15.1	2S1.4	0	0.0	0	0.0
2L1.3	0	0.0	0	0.0	2T1.1	408	0.8	510	0.9
2L2.1	311	0.6	332	0.6	2T1.2	0	0.0	0	0.0
2L2.2	704	1.3	754	1.3	2T1.3	1	0.0	1	0.0
2L2.3	0	0.0	0	0.0	2T1.4	96	0.2	102	0.2
2L2.4	0	0.0	0	0.0	2T1.5	0	0.0	0	0.0
2L2.5	0	0.0	0	0.0	2T1.6	10	0.0	11	0.0
2M1.1	1	0.0	1	0.0	2T1.7	0	0.0	0	0.0
2M2.1	0	0.0	0	0.0	2T1.8	0	0.0	0	0.0
2M2.2	0	0.0	0	0.0	2T1.9	17	0.0	29	0.1
2M2.3	0	0.0	0	0.0	2T2.1	0	0.0	1	0.0
2M2.4	0	0.0	0	0.0	2T2.2	0	0.0	0	0.0
2M3.1	0	0.0	0	0.0	2T3.1	24	0.0	29	0.1
2M3.2	0	0.0	0	0.0	2T3.2	0	0.0	0	0.0
2M3.3	1	0.0	1	0.0	2T4.1	0	0.0	0	0.0
2M3.4	0	0.0	0	0.0	2X1.1	108	0.2	1,107	1.9
2M3.5	0	0.0	0	0.0	2X2.1	0	0.0	38	0.1
2M3.6	0	0.0	0	0.0	2X3.1	93	0.2	109	0.2
2M3.7	0	0.0	0	0.0	2X4.1	369	0.7	381	0.7
2M3.8	0	0.0	0	0.0	2X5.1	0	0.0	40	0.1
2M3.9	0	0.0	0	0.0					
					Total number of guidelines applied:				
					57,555				
					Number of cases with at least one guideline applied:				
					52,907				

<sup>1</sup>Of the 56,086 cases, 3,179 were excluded due to missing guideline applied. The total for any guideline can exceed that for primary guideline because a case can have several guidelines applied, but only one primary guideline.

**GUIDELINE OFFENDERS IN EACH CIRCUIT AND DISTRICT<sup>1</sup>**  
**Special Post-Booker Coding Project (Data Extracted December 21, 2005)**

<b>CIRCUIT</b>			<b>CIRCUIT</b>		
District	Number	Percent	District	Number	Percent
<b>TOTAL</b>	<b>56,086</b>	<b>100.0</b>			
<b>D.C. CIRCUIT</b>	<b>440</b>	<b>0.8</b>	<b>FIFTH CIRCUIT</b>	<b>12,260</b>	<b>21.9</b>
District of Columbia	440	0.8	Louisiana		
			Eastern	245	0.4
			Middle	163	0.3
			Western	353	0.6
<b>FIRST CIRCUIT</b>	<b>1,307</b>	<b>2.3</b>	Mississippi		
Maine	206	0.4	Northern	169	0.3
Massachusetts	388	0.7	Southern	289	0.5
New Hampshire	164	0.3	Texas		
Puerto Rico	439	0.8	Eastern	618	1.1
Rhode Island	110	0.2	Northern	803	1.4
			Southern	5,353	9.5
<b>SECOND CIRCUIT</b>	<b>3,345</b>	<b>6.0</b>	Western	4,267	7.6
Connecticut	336	0.6			
New York			<b>SIXTH CIRCUIT</b>	<b>4,414</b>	<b>7.9</b>
Eastern	987	1.8	Kentucky		
Northern	307	0.5	Eastern	438	0.8
Southern	1,020	1.8	Western	304	0.5
Western	518	0.9	Michigan		
Vermont	177	0.3	Eastern	560	1.0
			Western	359	0.6
<b>THIRD CIRCUIT</b>	<b>2,810</b>	<b>5.0</b>	Ohio		
Delaware	134	0.2	Northern	864	1.5
New Jersey	846	1.5	Southern	537	1.0
Pennsylvania			Tennessee		
Eastern	840	1.5	Eastern	542	1.0
Middle	522	0.9	Middle	272	0.5
Western	379	0.7	Western	538	1.0
Virgin Islands	89	0.2			
			<b>SEVENTH CIRCUIT</b>	<b>2,572</b>	<b>4.6</b>
<b>FOURTH CIRCUIT</b>	<b>5,136</b>	<b>9.2</b>	Illinois		
Maryland	593	1.1	Central	334	0.6
North Carolina			Northern	927	1.7
Eastern	527	0.9	Southern	246	0.4
Middle	400	0.7	Indiana		
Western	464	0.8	Northern	315	0.6
South Carolina	861	1.5	Southern	258	0.5
Virginia			Wisconsin		
Eastern	1,188	2.1	Eastern	325	0.6
Western	561	1.0	Western	167	0.3
West Virginia					
Northern	266	0.5			
Southern	276	0.5			



(continued)

<b>CIRCUIT</b>			<b>CIRCUIT</b>		
District	Number	Percent	District	Number	Percent
<b>EIGHTH CIRCUIT</b>	<b>4,122</b>	<b>7.3</b>	<b>TENTH CIRCUIT</b>	<b>4,596</b>	<b>8.2</b>
Arkansas			Colorado	523	0.9
Eastern	209	0.4	Kansas	546	1.0
Western	165	0.3	New Mexico	2,072	3.7
Iowa			Oklahoma		
Northern	304	0.5	Eastern	82	0.1
Southern	219	0.4	Northern	173	0.3
Minnesota	457	0.8	Western	199	0.4
Missouri			Utah	812	1.4
Eastern	859	1.5	Wyoming	189	0.3
Western	605	1.1			
Nebraska	747	1.3	<b>ELEVENTH CIRCUIT</b>	<b>5,075</b>	<b>9.0</b>
North Dakota	179	0.3	Alabama		
South Dakota	378	0.7	Middle	167	0.3
			Northern	367	0.7
<b>NINTH CIRCUIT</b>	<b>10,009</b>	<b>17.8</b>	Southern	281	0.5
Alaska	182	0.3	Florida		
Arizona	3,265	5.8	Middle	1,262	2.3
California			Northern	266	0.5
Central	768	1.4	Southern	1,565	2.8
Eastern	758	1.4	Georgia		
Northern	554	1.0	Middle	337	0.6
Southern	1,665	3.0	Northern	560	1.0
Guam	70	0.1	Southern	270	0.5
Hawaii	403	0.7			
Idaho	183	0.3			
Montana	314	0.6			
Nevada	381	0.7			
Northern Mariana Islands	24	0.0			
Oregon	447	0.8			
Washington					
Eastern	331	0.6			
Western	664	1.2			

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, (data extracted December 21, 2005; table prepared January 5, 2006). Summary numbers may not add up to their component parts due to rounding.

## Guideline Application Trends, National and Circuit

Fiscal Years 2001, 2002, 2003, Pre-Blakely FY2004, and Post-Booker FY2005-06<sup>1</sup>  
(Post-Booker data extracted December 21, 2005)

### NATIONAL

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	64.0%	65.0%	69.4%	72.2%	61.2%
Upward Departures	0.6%	0.8%	0.8%	0.8%	0.3% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.4% <sup>3</sup>
Substantial Assistance Departures	17.1%	17.4%	15.9%	15.5%	14.8%
Other Gov't Sponsored Departures	—	—	6.3% <sup>4</sup>	6.4%	9.6% <sup>4</sup>
Other Downward Departures	18.3% <sup>5</sup>	16.8% <sup>5</sup>	7.5%	5.2%	3.2% <sup>2</sup>
Otherwise Below Range	—	—	—	—	9.6% <sup>3</sup>

### DC CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	74.6%	59.9%	64.6%	59.2%	52.9%
Upward Departures	0.4%	0.5%	0.2%	1.0%	0.0% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.6% <sup>3</sup>
Substantial Assistance Departures	13.8%	31.1%	26.4%	31.3%	24.8%
Other Gov't Sponsored Departures	—	—	4.4% <sup>4</sup>	3.9%	7.1% <sup>4</sup>
Other Downward Departures	11.2% <sup>5</sup>	8.5% <sup>5</sup>	4.4%	4.7%	2.8% <sup>2</sup>
Otherwise Below Range	—	—	—	—	10.8% <sup>3</sup>

### FIRST CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	73.3%	75.7%	77.3%	79.6%	64.8%
Upward Departures	0.4%	0.6%	0.7%	0.9%	0.4% <sup>2</sup>
Otherwise Above Range	—	—	—	—	2.3% <sup>3</sup>
Substantial Assistance Departures	14.6%	14.4%	13.5%	13.8%	12.3%
Other Gov't Sponsored Departures	—	—	0.7% <sup>4</sup>	0.5%	2.3% <sup>4</sup>
Other Downward Departures	11.7% <sup>5</sup>	9.3% <sup>5</sup>	7.8%	5.2%	3.9% <sup>2</sup>
Otherwise Below Range	—	—	—	—	14.1% <sup>3</sup>

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## Guideline Application Trends, National and Circuit

Fiscal Years 2001, 2002, 2003, Pre-Blakely FY2004, and Post-Booker FY2005-06<sup>1</sup>

### SECOND CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	57.5%	61.3%	63.2%	63.8%	49.5%
Upward Departures	0.4%	0.6%	0.5%	0.9%	0.1% <sup>2</sup>
Otherwise Above Range	—	—	—	—	0.9% <sup>3</sup>
Substantial Assistance Departures	21.7%	19.0%	17.5%	19.2%	22.8%
Other Gov't Sponsored Departures	—	—	2.8% <sup>4</sup>	2.5%	3.3% <sup>4</sup>
Other Downward Departures	20.4% <sup>5</sup>	19.1% <sup>5</sup>	16.0%	13.6%	6.8% <sup>2</sup>
Otherwise Below Range	—	—	—	—	16.7% <sup>3</sup>

### THIRD CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	60.2%	58.9%	62.3%	62.6%	51.3%
Upward Departures	0.5%	0.9%	0.9%	0.6%	0.2% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.2% <sup>3</sup>
Substantial Assistance Departures	30.6%	32.3%	28.8%	30.3%	27.7%
Other Gov't Sponsored Departures	—	—	0.6% <sup>4</sup>	0.8%	1.7% <sup>4</sup>
Other Downward Departures	8.8% <sup>5</sup>	7.9% <sup>5</sup>	7.4%	5.8%	4.1% <sup>2</sup>
Otherwise Below Range	—	—	—	—	13.9% <sup>3</sup>

### FOURTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	73.7%	76.6%	77.0%	79.0%	66.2%
Upward Departures	0.9%	0.7%	0.6%	1.0%	0.3% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.4% <sup>3</sup>
Substantial Assistance Departures	20.2%	18.6%	18.3%	16.7%	18.4%
Other Gov't Sponsored Departures	—	—	0.3% <sup>4</sup>	0.3%	1.3% <sup>4</sup>
Other Downward Departures	5.2% <sup>5</sup>	4.2% <sup>5</sup>	3.8%	3.0%	2.5% <sup>2</sup>
Otherwise Below Range	—	—	—	—	9.9% <sup>3</sup>

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## Guideline Application, National and Circuit

Fiscal Years 2001, 2002, 2003, Pre-Blakely FY2004, and Post-Booker FY2005-06<sup>1</sup>

### FIFTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	69.1%	71.0%	73.7%	80.2%	70.7%
Upward Departures	0.5%	0.9%	0.9%	0.8%	0.2% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.6% <sup>3</sup>
Substantial Assistance Departures	12.3%	13.4%	12.5%	10.3%	8.2%
Other Gov't Sponsored Departures	—	—	5.4% <sup>4</sup>	5.2%	10.3% <sup>4</sup>
Other Downward Departures	18.1% <sup>5</sup>	14.7% <sup>5</sup>	7.5%	3.5%	2.5% <sup>2</sup>
Otherwise Below Range	—	—	—	—	6.4% <sup>3</sup>

### SIXTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	65.1%	66.9%	69.1%	69.7%	57.6%
Upward Departures	0.5%	0.8%	0.4%	0.5%	0.2% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.4% <sup>3</sup>
Substantial Assistance Departures	27.2%	26.0%	24.6%	24.3%	25.1%
Other Gov't Sponsored Departures	—	—	0.5% <sup>4</sup>	0.4%	1.7% <sup>4</sup>
Other Downward Departures	7.3% <sup>5</sup>	6.3% <sup>5</sup>	5.3%	5.1%	2.9% <sup>2</sup>
Otherwise Below Range	—	—	—	—	11.2% <sup>3</sup>

### SEVENTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	71.0%	69.3%	72.5%	75.4%	62.8%
Upward Departures	1.0%	0.8%	1.0%	1.3%	0.3% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.0% <sup>3</sup>
Substantial Assistance Departures	21.2%	21.8%	21.2%	19.0%	17.5%
Other Gov't Sponsored Departures	—	—	0.8% <sup>4</sup>	0.8%	2.6% <sup>4</sup>
Other Downward Departures	6.9% <sup>5</sup>	8.1% <sup>5</sup>	4.5%	3.6%	3.8% <sup>2</sup>
Otherwise Below Range	—	—	—	—	12.0% <sup>3</sup>

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## Guideline Application Trends By Circuit

Fiscal Years 2001, 2002, 2003, Pre-Blakely FY2004, and Post-Booker FY2005-06<sup>1</sup>

### EIGHTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	66.8%	69.3%	72.2%	77.0%	64.7%
Upward Departures	0.7%	1.2%	1.1%	0.9%	0.2% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.7% <sup>3</sup>
Substantial Assistance Departures	22.0%	18.9%	17.6%	15.3%	13.7%
Other Gov't Sponsored Departures	—	—	2.0% <sup>4</sup>	2.1%	4.2% <sup>4</sup>
Other Downward Departures	10.5% <sup>5</sup>	10.7% <sup>5</sup>	7.1%	4.7%	3.5% <sup>2</sup>
Otherwise Below Range	—	—	—	—	11.9% <sup>3</sup>

### NINTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	50.1%	48.8%	59.6%	61.8%	46.9%
Upward Departures	0.4%	0.7%	1.1%	0.8%	0.3% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.3% <sup>3</sup>
Substantial Assistance Departures	10.7%	11.8%	10.2%	10.6%	10.6%
Other Gov't Sponsored Departures	—	—	19.2% <sup>4</sup>	20.4%	28.9% <sup>4</sup>
Other Downward Departures	38.7% <sup>5</sup>	38.7% <sup>5</sup>	9.9%	6.5%	3.4% <sup>2</sup>
Otherwise Below Range	—	—	—	—	8.5% <sup>3</sup>

### TENTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	65.0%	66.6%	73.1%	73.9%	65.9%
Upward Departures	0.7%	0.6%	0.6%	0.7%	0.1% <sup>2</sup>
Otherwise Above Range	—	—	—	—	0.9% <sup>3</sup>
Substantial Assistance Departures	11.0%	11.0%	9.4%	10.3%	9.4%
Other Gov't Sponsored Departures	—	—	11.4% <sup>4</sup>	10.7%	13.8% <sup>4</sup>
Other Downward Departures	23.3% <sup>5</sup>	21.9% <sup>5</sup>	5.5%	4.5%	2.9% <sup>2</sup>
Otherwise Below Range	—	—	—	—	6.9% <sup>3</sup>

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## Guideline Application Trends By Circuit

Fiscal Years 2001, 2002, 2003, Pre-Blakely FY2004, and Post-Booker FY2005-06<sup>1</sup>

### ELEVENTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	72.1%	70.2%	74.5%	74.7%	67.9%
Upward Departures	0.6%	0.7%	0.8%	0.8%	0.4% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.7% <sup>3</sup>
Substantial Assistance Departures	19.9%	22.4%	19.9%	21.0%	18.1%
Other Gov't Sponsored Departures	—	—	0.3% <sup>4</sup>	0.2%	1.1% <sup>4</sup>
Other Downward Departures	7.5% <sup>5</sup>	6.7% <sup>5</sup>	4.5%	3.3%	2.8% <sup>2</sup>
Otherwise Below Range	—	—	—	—	8.2% <sup>3</sup>

<sup>1</sup>In 2003, the Commission augmented its data coding procedures to determine the proportion of non-substantial assistance downward departures that were sponsored by the government. Data prior to 2003 does not distinguish non-substantial assistance government initiated downward departures from other downward departures. In this table, data from FY2001 and 2002 on “Other Downward Departures” combines both government sponsored and non-government sponsored downward departures. For FY2003 and FY2004, the “Other Downward Departures” data distinguishes departures that were sponsored by the government from those not sponsored by the government. For example, using the national data, 6.3% of downward departures were government sponsored and 7.5% were other downward departures; the combination of these values (13.8%) is directly comparable to the data for “Other Downward Departures” from the preceding years. For FY2004, this table reflects only cases sentenced prior to the *Blakely v. Washington* decision on June 24, 2004. For FY2005, this table reflects cases sentenced subsequent to the *U.S. v. Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by December 21, 2005. In these cases, a further distinction is made among below guideline range sentences. The data report three categories of below range sentences: those sponsored by the government; those not sponsored by the government and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual*; and those mentioning only *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for a sentence outside of the guideline range. Cases citing both reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual* and mentioning *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors are included in the “Other Downward Departures” category.

<sup>2</sup>Includes cases with imposed sentences outside of the guideline range and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual* and all cases with imposed sentences outside of the guideline range citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual*, and additionally mentioning either *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for a sentence outside of the guideline range.

<sup>3</sup>Includes cases with imposed sentences outside of the guideline range mentioning only *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for a sentence outside of the guideline range and all cases with imposed sentences outside of the guideline range that do not fall into the previous category. This category includes cases which cite departure reasons that are *not* affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual* and cases which do not provide any reason for the sentence outside of the guideline range.

<sup>4</sup>Cases with a reason for departure indicating that the prosecution initiates, proposes, or stipulates to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant. Note that §5K3.1 (Early Disposition Program) cases are included in this category.

<sup>5</sup>Includes cases in which the below range sentence was sponsored by the government and those not sponsored by the government. Prior to FY2003, the Commission did not code this distinction.

SOURCE: U.S. Sentencing Commission *Sourcebook of Federal Sentencing*, FY2001 through FY2003, Table 26; U.S. Sentencing Commission 2004 Fiscal Year Data File, USSCFY04, Pre-Blakely Only Cases (October 1, 2003 through June 24, 2004); Special Post-Booker Coding Project, (data extracted December 21, 2005; table prepared January 5, 2006). Percents may not sum to 100 percent due to rounding.

**Distribution of Offenders Receiving Sentencing Options for the Most Frequently Applied Guidelines**  
FY 2000-2003, Pre-Blakely FY 2004, and Post-Booker FY 2005-2006 (data extracted December 21, 2005)

	FY 2000		FY 2001		FY 2002		FY 2003		Pre-Blakely FY 2004		Post-Booker FY2005-06	
	N	%	N	%	N	%	N	%	N	%	N	%
<b>Drug Trafficking §2D1.1<sup>1</sup></b>	21,715	100.0	22,608	100.0	24,013	100.0	23,833	100.0	16,955	100.0	19,104	100.0
Prison only <sup>2</sup>	20,422	94.0	21,143	93.5	22,407	93.3	22,455	94.2	16,081	94.9	18,054	94.5
Prison plus confinement conditions <sup>3</sup>	430	2.0	469	2.1	515	2.1	402	1.7	337	2.0	414	2.2
Probation plus confinement conditions <sup>4</sup>	379	1.7	488	2.2	465	1.9	469	2.0	227	1.3	278	1.5
Probation only <sup>5</sup>	484	2.2	508	2.2	626	2.6	507	2.1	310	1.8	358	1.9
<b>Immigration Unlawful Entry §2L1.2<sup>1</sup></b>	6,341	100.0	5,946	100.0	6,993	100.0	9,167	100.0	7,058	100.0	8,490	100.0
Prison only <sup>2</sup>	6,291	99.2	5,901	99.2	6,952	99.4	9,132	99.6	7,032	99.6	8,426	99.3
Prison plus confinement conditions <sup>3</sup>	10	0.2	14	0.2	7	0.1	11	0.1	10	0.1	18	0.2
Probation plus confinement conditions <sup>4</sup>	1	0.0	1	0.0	0	0.0	2	0.0	0	0.0	2	0.0
Probation only <sup>5</sup>	39	0.6	30	0.5	34	0.5	22	0.2	16	0.2	44	0.5
<b>Firearms §2K2.1<sup>1</sup></b>	2,997	100.0	3,629	100.0	4,173	100.0	5,425	100.0	4,782	100.0	5,364	100.0
Prison only <sup>2</sup>	2,604	86.9	3,177	87.5	3,680	88.2	4,779	88.1	4,292	89.8	4,811	89.7
Prison plus confinement conditions <sup>3</sup>	104	3.5	141	3.9	158	3.8	174	3.2	128	2.7	163	3.0
Probation plus confinement conditions <sup>4</sup>	147	4.9	155	4.3	139	3.3	224	4.1	160	3.4	195	3.6
Probation only <sup>5</sup>	142	4.7	156	4.3	196	4.7	248	4.6	202	4.2	195	3.6
<b>Theft/Fraud §2B1.1 or §2F1.1<sup>1</sup></b>	9,015	100.0	8,768	100.0	9,243	100.0	9,606	100.0	6,909	100.0	6,539	100.0
Prison only <sup>2</sup>	4,253	47.2	4,339	49.5	4,531	49.0	4,803	50.0	3,574	51.7	3,499	53.5
Prison plus confinement conditions <sup>3</sup>	1,077	11.9	1,053	12.0	959	10.4	840	8.7	629	9.1	599	9.2
Probation plus confinement conditions <sup>4</sup>	1,540	17.1	1,481	16.9	1,421	15.4	1,463	15.2	997	14.4	836	12.8
Probation only <sup>5</sup>	2,145	23.8	1,895	21.6	2,332	25.2	2,500	26.0	1,709	24.7	1,605	24.6

<sup>1</sup>Sections report only cases with one single guideline application using the indicated guideline. Cases receiving only monetary sentences are excluded.

<sup>2</sup>Prison only cases receive straight prison time.

<sup>3</sup>Prison plus confinement cases receive a combination of prison time and alternative confinement time as defined in USSG §5C1.1.

<sup>4</sup>Probation plus confinement cases receive, as a condition of probation, alternative confinement time as defined in USSG §5C1.1.

<sup>5</sup>Probation only cases receive straight probation time.

SOURCE: U.S. Sentencing Commission, 2000-2003 Fiscal Year Datafiles, USSCFY00-USSCFY03; 2004 Fiscal Year Datafile, USSCFY04, Pre-Blakely Only Cases (October 1, 2003 through June 24, 2004); Special Post-Booker Coding Project (data extraction on December 21, 2005; table prepared January 5, 2006). Numbers may not sum to 100 percent due to rounding.

## Average and Median Sentence Imposed<sup>1</sup> for the Most Frequently Applied Guidelines

Fiscal Year 2000 and Fiscal Year 2001

	Fiscal Year 2000				Fiscal Year 2001			
	Average Months	Median Months	GL Median <sup>2</sup>	N	Average Months	Median Months	GL Median <sup>2</sup>	N
<b>All Cases (one guideline computation)<sup>3</sup></b>	<b>50</b>	<b>30</b>		<b>51,342</b>	<b>50</b>	<b>30</b>		<b>51,809</b>
<b>Drug Trafficking §2D1.1<sup>4</sup></b>	<b>72</b>	<b>50</b>	<b>60</b>	<b>21,715</b>	<b>70</b>	<b>48</b>	<b>60</b>	<b>22,608</b>
Prison only <sup>5</sup>	74	57	63	20,422	72	51	60	21,143
Prison plus confinement conditions <sup>6</sup>	21	10	21	430	29	10	18	469
Probation plus confinement conditions <sup>7</sup>	6	6	12	379	6	6	12	488
Probation only <sup>8</sup>	0	0	—	484	0	0	—	508
<b>Immigration Unlawful Entry §2L1.2<sup>4</sup></b>	<b>36</b>	<b>33</b>	<b>46</b>	<b>6,341</b>	<b>35</b>	<b>30</b>	<b>46</b>	<b>5,946</b>
Prison only <sup>5</sup>	36	33	33	6,291	35	30	46	5,901
Prison plus confinement conditions <sup>6</sup>	21	10	10	10	20	10	12	14
Probation plus confinement conditions <sup>7</sup>	—	—	—	1	—	—	—	1
Probation only <sup>8</sup>	0	0	—	39	0	0	—	30
<b>Firearms §2K2.1<sup>4</sup></b>	<b>53</b>	<b>37</b>	<b>37</b>	<b>2,997</b>	<b>52</b>	<b>37</b>	<b>37</b>	<b>3,629</b>
Prison only <sup>5</sup>	57	37	41	2,604	56	40	41	3,177
Prison plus confinement conditions <sup>6</sup>	23	10	12	104	22	10	15	141
Probation plus confinement conditions <sup>7</sup>	7	6	12	147	6	6	12	155
Probation only <sup>8</sup>	0	0	—	142	0	0	—	156
<b>Theft/Fraud §2B1.1 or §2F1.1<sup>4</sup></b>	<b>14</b>	<b>10</b>	<b>10</b>	<b>9,015</b>	<b>15</b>	<b>10</b>	<b>12</b>	<b>8,768</b>
Prison only <sup>5</sup>	19	15	15	4,253	20	15	15	4,339
Prison plus confinement conditions <sup>6</sup>	9	8	8	1,077	9	8	8	1,053
Probation plus confinement conditions <sup>7</sup>	5	6	6	1,540	5	6	6	1,481
Probation only <sup>8</sup>	0	0	—	2,145	0	0	—	1,895

<sup>1</sup>Sentence data report the sum of imprisonment and any type of confinement as defined in USSG §5C1.1.

<sup>2</sup>For the guideline range of the sentencing table applied to the case, the lower value of the sentencing range.

<sup>3</sup>All statistics in the table report data for cases with one single guideline computation for the specified fiscal year. The “All Cases” row reports all cases regardless of the one guideline applied. Cases receiving only monetary sentences are excluded.

<sup>4</sup>Each guideline-specific section reports only cases with one single guideline application using the indicated guideline.

<sup>5</sup>Prison only sentence categories report straight prison time.

<sup>6</sup>Prison plus confinement sentence categories report the sum of prison time and alternative confinement time as defined in USSG §5C1.1.

<sup>7</sup>Probation plus confinement categories report statistics for cases receiving, as a condition of probation, alternative confinement time as defined in USSG §5C1.1.

<sup>8</sup>Probation only categories report cases receiving straight probation time. By definition, the confinement time is zero months for these cases.



## Average and Median Sentence Imposed<sup>1</sup> for the Most Frequently Applied Guidelines

Fiscal Year 2002 and Fiscal Year 2003

	Fiscal Year 2002				Fiscal Year 2003			
	Average Months	Median Months	GL Median <sup>2</sup>	N	Average Months	Median Months	GL Median <sup>2</sup>	N
<b>All Cases (one guideline computation)<sup>3</sup></b>	<b>51</b>	<b>30</b>		<b>55,856</b>	<b>52</b>	<b>30</b>		<b>60,786</b>
<b>Drug Trafficking §2D1.1<sup>4</sup></b>	<b>71</b>	<b>51</b>	<b>60</b>	<b>24,013</b>	<b>77</b>	<b>57</b>	<b>63</b>	<b>23,833</b>
Prison only <sup>5</sup>	74	57	57	22,407	79	60	70	22,455
Prison plus confinement conditions <sup>6</sup>	22	10	10	515	20	10	15	402
Probation plus confinement conditions <sup>7</sup>	6	6	6	465	6	6	12	469
Probation only <sup>8</sup>	0	0	—	626	0	0	—	507
<b>Immigration Unlawful Entry §2L1.2<sup>4</sup></b>	<b>30</b>	<b>27</b>	<b>30</b>	<b>6,993</b>	<b>28</b>	<b>24</b>	<b>27</b>	<b>9,167</b>
Prison only <sup>5</sup>	30	27	30	6,952	28	24	27	9,132
Prison plus confinement conditions <sup>6</sup>	20	10	10	7	22	10	10	11
Probation plus confinement conditions <sup>7</sup>	—	—	—	0	—	—	—	2
Probation only <sup>8</sup>	0	0	—	34	0	0	—	22
<b>Firearms §2K2.1<sup>4</sup></b>	<b>53</b>	<b>37</b>	<b>37</b>	<b>4,173</b>	<b>56</b>	<b>37</b>	<b>37</b>	<b>5,425</b>
Prison only <sup>5</sup>	57	37	37	3,680	59	41	41	4,779
Prison plus confinement conditions <sup>6</sup>	18	10	12	158	21	10	12	174
Probation plus confinement conditions <sup>7</sup>	6	6	12	139	6	6	12	224
Probation only <sup>8</sup>	0	0	—	196	0	0	—	248
<b>Theft/Fraud §2B1.1 or §2F1.1<sup>4</sup></b>	<b>16</b>	<b>10</b>	<b>12</b>	<b>9,243</b>	<b>16</b>	<b>12</b>	<b>12</b>	<b>9,606</b>
Prison only <sup>5</sup>	20	15	15	4,531	21	16	18	4,803
Prison plus confinement conditions <sup>6</sup>	9	10	10	959	9	10	10	840
Probation plus confinement conditions <sup>7</sup>	6	6	6	1,421	6	6	6	1,463
Probation only <sup>8</sup>	0	0	—	2,332	0	0	—	2,500

<sup>1</sup>Sentence data report the sum of imprisonment and any type of confinement as defined in USSG §5C1.1.

<sup>2</sup>For the guideline range of the sentencing table applied to the case, the lower value of the sentencing range.

<sup>3</sup>All statistics in the table report data for cases with one single guideline computation for the specified fiscal year. The “All Cases” row reports all cases regardless of the one guideline applied. Cases receiving only monetary sentences are excluded.

<sup>4</sup>Each guideline-specific section reports only cases with one single guideline application using the indicated guideline.

<sup>5</sup>Prison only sentence categories report straight prison time.

<sup>6</sup>Prison plus confinement sentence categories report the sum of prison time and alternative confinement time as defined in USSG §5C1.1.

<sup>7</sup>Probation plus confinement categories report statistics for cases receiving, as a condition of probation, alternative confinement time as defined in USSG §5C1.1.

<sup>8</sup>Probation only categories report cases receiving straight probation time. By definition, the confinement time is zero months for these cases.

## Average and Median Sentence Imposed<sup>1</sup> for the Most Frequently Applied Guidelines

Pre-Blakely FY 2004 and Post-Booker FY 2005-2006 (data extracted December 21, 2005)

	Pre-Blakely FY 2004				Post-Booker FY2005-06			
	Average Months	Median Months	GL Median <sup>2</sup>	N	Average Months	Median Months	GL Median <sup>2</sup>	N
<b>All Cases (one guideline computation)<sup>3</sup></b>	<b>56</b>	<b>33</b>		<b>44,895</b>	<b>56</b>	<b>34</b>		<b>50,754</b>
<b>Drug Trafficking §2D1.1<sup>4</sup></b>	<b>83</b>	<b>60</b>	<b>70</b>	<b>16,955</b>	<b>83</b>	<b>60</b>	<b>70</b>	<b>19,104</b>
Prison only <sup>5</sup>	86	60	70	16,081	86	63	78	18,054
Prison plus confinement conditions <sup>6</sup>	22	10	12	337	19	10	21	414
Probation plus confinement conditions <sup>7</sup>	6	6	12	227	6	6	15	278
Probation only <sup>8</sup>	0	0	—	310	0	0	—	358
<b>Immigration Unlawful Entry §2L1.2<sup>4</sup></b>	<b>29</b>	<b>24</b>	<b>24</b>	<b>7,058</b>	<b>27</b>	<b>24</b>	<b>27</b>	<b>8,490</b>
Prison only <sup>5</sup>	29	24	24	7,032	27	24	27	8,426
Prison plus confinement conditions <sup>6</sup>	40	34	29	10	14	10	15	18
Probation plus confinement conditions <sup>7</sup>	—	—	—	0	—	—	—	2
Probation only <sup>8</sup>	0	0	—	16	0	0	—	44
<b>Firearms §2K2.1<sup>4</sup></b>	<b>59</b>	<b>40</b>	<b>41</b>	<b>4,782</b>	<b>58</b>	<b>37</b>	<b>37</b>	<b>5,364</b>
Prison only <sup>5</sup>	63	42	46	4,292	61	41	41	4,811
Prison plus confinement conditions <sup>6</sup>	21	10	10	128	28	10	12	163
Probation plus confinement conditions <sup>7</sup>	6	6	10	160	7	6	12	195
Probation only <sup>8</sup>	0	0	—	202	0	0	—	195
<b>Theft/Fraud §2B1.1 or §2F1.1<sup>4</sup></b>	<b>19</b>	<b>12</b>	<b>12</b>	<b>6,909</b>	<b>21</b>	<b>12</b>	<b>15</b>	<b>6,539</b>
Prison only <sup>5</sup>	25	18	18	3,574	26	18	18	3,499
Prison plus confinement conditions <sup>6</sup>	9	10	10	629	10	10	10	599
Probation plus confinement conditions <sup>7</sup>	6	6	6	997	6	6	6	836
Probation only <sup>8</sup>	0	0	—	1,709	0	0	—	1,605

<sup>1</sup>Sentence data report the sum of imprisonment and any type of confinement as defined in USSG §5C1.1.

<sup>2</sup>For the guideline range of the sentencing table applied to the case, the lower value of the sentencing range.

<sup>3</sup>All statistics in the table report data for cases with one single guideline computation for the specified fiscal year. The “All Cases” row reports all cases regardless of the one guideline applied. Cases receiving only monetary sentences are excluded.

<sup>4</sup>Each guideline-specific section reports only cases with one single guideline application using the indicated guideline.

<sup>5</sup>Prison only sentence categories report straight prison time.

<sup>6</sup>Prison plus confinement sentence categories report the sum of prison time and alternative confinement time as defined in USSG §5C1.1.

<sup>7</sup>Probation plus confinement categories report statistics for cases receiving, as a condition of probation, alternative confinement time as defined in USSG §5C1.1.

<sup>8</sup>Probation only categories report cases receiving straight probation time. By definition, the confinement time is zero months for these cases.

SOURCE: U.S. Sentencing Commission, 2004 Fiscal Year Datafile, USSCFY04 Pre-Blakely Only Cases (October 1, 2003 through June 24, 2004); Special Post-Booker Coding Project (data extraction on December 21, 2005; table prepared January 5, 2006).

**POST-BOOKER DEPARTURE/VARIANCE RATE BY CIRCUIT AND DISTRICT<sup>1</sup>**  
**Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on December 21, 2005**

CIRCUIT District	TOTAL	SENTENCED WITHIN GUIDELINE RANGE		GOVERNMENT SPONSORED BELOW THE GUIDELINE RANGE		DEPARTURES BELOW THE GUIDELINE RANGE		OTHERWISE BELOW THE GUIDELINE RANGE		DEPARTURES ABOVE THE GUIDELINE RANGE		OTHERWISE ABOVE THE GUIDELINE RANGE	
		%	%	%	%	%	%	%	%	%	%	%	%
<b>TOTAL</b>	<b>54,624</b>	<b>33,418</b>	<b>61.2</b>	<b>13,321</b>	<b>24.4</b>	<b>1,772</b>	<b>3.2</b>	<b>5,215</b>	<b>9.5</b>	<b>140</b>	<b>0.3</b>	<b>758</b>	<b>1.4</b>
<b>D.C. CIRCUIT</b>	<b>435</b>	<b>230</b>	<b>52.9</b>	<b>139</b>	<b>32.0</b>	<b>12</b>	<b>2.8</b>	<b>47</b>	<b>10.8</b>	<b>0</b>	<b>0.0</b>	<b>7</b>	<b>1.6</b>
District of Columbia	435	230	52.9	139	32.0	12	2.8	47	10.8	0	0.0	7	1.6
<b>FIRST CIRCUIT</b>	<b>1,278</b>	<b>828</b>	<b>64.8</b>	<b>186</b>	<b>14.6</b>	<b>50</b>	<b>3.9</b>	<b>180</b>	<b>14.1</b>	<b>5</b>	<b>0.4</b>	<b>29</b>	<b>2.3</b>
Maine	203	148	72.9	43	21.2	5	2.5	6	3.0	0	0.0	1	0.5
Massachusetts	374	193	51.6	45	12.0	29	7.8	100	26.7	2	0.5	5	1.3
New Hampshire	164	91	55.5	51	31.1	7	4.3	10	6.1	0	0.0	5	3.0
Puerto Rico	429	322	75.1	40	9.3	6	1.4	44	10.3	2	0.5	15	3.5
Rhode Island	108	74	68.5	7	6.5	3	2.8	20	18.5	1	0.9	3	2.8
<b>SECOND CIRCUIT</b>	<b>3,283</b>	<b>1,624</b>	<b>49.5</b>	<b>857</b>	<b>26.1</b>	<b>222</b>	<b>6.8</b>	<b>548</b>	<b>16.7</b>	<b>3</b>	<b>0.1</b>	<b>29</b>	<b>0.9</b>
Connecticut	332	154	46.4	88	26.5	46	13.9	41	12.3	1	0.3	2	0.6
New York													
Eastern	985	344	34.9	303	30.8	92	9.3	229	23.2	1	0.1	16	1.6
Northern	306	159	52.0	99	32.4	18	5.9	27	8.8	0	0.0	3	1.0
Southern	987	598	60.6	138	14.0	49	5.0	195	19.8	1	0.1	6	0.6
Western	496	285	57.5	164	33.1	4	0.8	41	8.3	0	0.0	2	0.4
Vermont	177	84	47.5	65	36.7	13	7.3	15	8.5	0	0.0	0	0.0
<b>THIRD CIRCUIT</b>	<b>2,773</b>	<b>1,422</b>	<b>51.3</b>	<b>814</b>	<b>29.4</b>	<b>113</b>	<b>4.1</b>	<b>386</b>	<b>13.9</b>	<b>6</b>	<b>0.2</b>	<b>32</b>	<b>1.2</b>
Delaware	134	88	65.7	11	8.2	11	8.2	24	17.9	0	0.0	0	0.0
New Jersey	817	413	50.6	262	32.1	37	4.5	95	11.6	1	0.1	9	1.1
Pennsylvania													
Eastern	835	334	40.0	293	35.1	30	3.6	164	19.6	3	0.4	11	1.3
Middle	522	249	47.7	197	37.7	15	2.9	52	10.0	2	0.4	7	1.3
Western	377	263	69.8	47	12.5	19	5.0	43	11.4	0	0.0	5	1.3
Virgin Islands	88	75	85.2	4	4.5	1	1.1	8	9.1	0	0.0	0	0.0
<b>FOURTH CIRCUIT</b>	<b>4,973</b>	<b>3,293</b>	<b>66.2</b>	<b>981</b>	<b>19.7</b>	<b>123</b>	<b>2.5</b>	<b>493</b>	<b>9.9</b>	<b>16</b>	<b>0.3</b>	<b>67</b>	<b>1.3</b>
Maryland	572	278	48.6	178	31.1	29	5.1	77	13.5	2	0.3	8	1.4
North Carolina													
Eastern	524	288	55.0	184	35.1	10	1.9	36	6.9	2	0.4	4	0.8
Middle	399	301	75.4	51	12.8	7	1.8	36	9.0	0	0.0	4	1.0
Western	460	279	60.7	132	28.7	13	2.8	31	6.7	0	0.0	5	1.1
South Carolina	832	587	70.6	145	17.4	18	2.2	75	9.0	4	0.5	3	0.4
Virginia													
Eastern	1,094	804	73.5	85	7.8	20	1.8	153	14.0	4	0.4	28	2.6
Western	560	342	61.1	146	26.1	11	2.0	50	8.9	2	0.4	9	1.6
West Virginia													
Northern	262	211	80.5	26	9.9	6	2.3	17	6.5	0	0.0	2	0.8
Southern	270	203	75.2	34	12.6	9	3.3	18	6.7	2	0.7	4	1.5

CIRCUIT District	TOTAL	SENTENCED WITHIN GUIDELINE RANGE		GOVERNMENT SPONSORED BELOW THE GUIDELINE RANGE		DEPARTURES BELOW THE GUIDELINE RANGE		OTHERWISE BELOW THE GUIDELINE RANGE		DEPARTURES ABOVE THE GUIDELINE RANGE		OTHERWISE ABOVE THE GUIDELINE RANGE	
		%		%		%		%		%		%	
<b>FIFTH CIRCUIT</b>	<b>12,190</b>	<b>8,618</b>	<b>70.7</b>	<b>2,262</b>	<b>18.6</b>	<b>306</b>	<b>2.5</b>	<b>782</b>	<b>6.4</b>	<b>28</b>	<b>0.2</b>	<b>194</b>	<b>1.6</b>
Louisiana													
Eastern	242	180	74.4	38	15.7	5	2.1	12	5.0	2	0.8	5	2.1
Middle	163	98	60.1	44	27.0	1	0.6	8	4.9	2	1.2	10	6.1
Western	350	250	71.4	32	9.1	6	1.7	43	12.3	1	0.3	18	5.1
Mississippi													
Northern	168	103	61.3	52	31.0	0	0.0	5	3.0	2	1.2	6	3.6
Southern	282	224	79.4	29	10.3	7	2.5	16	5.7	0	0.0	6	2.1
Texas													
Eastern	618	485	78.5	75	12.1	15	2.4	31	5.0	1	0.2	11	1.8
Northern	801	595	74.3	97	12.1	11	1.4	57	7.1	2	0.2	39	4.9
Southern	5,341	3,396	63.6	1,355	25.4	188	3.5	350	6.6	13	0.2	39	0.7
Western	4,225	3,287	77.8	540	12.8	73	1.7	260	6.2	5	0.1	60	1.4
<b>SIXTH CIRCUIT</b>	<b>4,315</b>	<b>2,487</b>	<b>57.6</b>	<b>1,155</b>	<b>26.8</b>	<b>125</b>	<b>2.9</b>	<b>482</b>	<b>11.2</b>	<b>7</b>	<b>0.2</b>	<b>59</b>	<b>1.4</b>
Kentucky													
Eastern	428	218	50.9	163	38.1	4	0.9	29	6.8	0	0.0	14	3.3
Western	289	199	68.9	67	23.2	5	1.7	18	6.2	0	0.0	0	0.0
Michigan													
Eastern	556	305	54.9	152	27.3	25	4.5	66	11.9	1	0.2	7	1.3
Western	357	239	66.9	58	16.2	9	2.5	43	12.0	1	0.3	7	2.0
Ohio													
Northern	857	497	58.0	204	23.8	40	4.7	109	12.7	1	0.1	6	0.7
Southern	518	241	46.5	178	34.4	17	3.3	74	14.3	0	0.0	8	1.5
Tennessee													
Eastern	527	338	64.1	132	25.0	3	0.6	46	8.7	0	0.0	8	1.5
Middle	254	148	58.3	58	22.8	10	3.9	35	13.8	1	0.4	2	0.8
Western	529	302	57.1	143	27.0	12	2.3	62	11.7	3	0.6	7	1.3
<b>SEVENTH CIRCUIT</b>	<b>2,538</b>	<b>1,593</b>	<b>62.8</b>	<b>511</b>	<b>20.1</b>	<b>96</b>	<b>3.8</b>	<b>305</b>	<b>12.0</b>	<b>8</b>	<b>0.3</b>	<b>25</b>	<b>1.0</b>
Illinois													
Central	326	182	55.8	74	22.7	11	3.4	55	16.9	1	0.3	3	0.9
Northern	911	522	57.3	222	24.4	48	5.3	112	12.3	1	0.1	6	0.7
Southern	246	204	82.9	14	5.7	8	3.3	16	6.5	2	0.8	2	0.8
Indiana													
Northern	311	209	67.2	80	25.7	9	2.9	12	3.9	0	0.0	1	0.3
Southern	254	164	64.6	59	23.2	4	1.6	20	7.9	2	0.8	5	2.0
Wisconsin													
Eastern	325	172	52.9	54	16.6	13	4.0	78	24.0	2	0.6	6	1.8
Western	165	140	84.8	8	4.8	3	1.8	12	7.3	0	0.0	2	1.2
<b>EIGHTH CIRCUIT</b>	<b>4,087</b>	<b>2,646</b>	<b>64.7</b>	<b>734</b>	<b>18.0</b>	<b>142</b>	<b>3.5</b>	<b>486</b>	<b>11.9</b>	<b>10</b>	<b>0.2</b>	<b>69</b>	<b>1.7</b>
Arkansas													
Eastern	200	129	64.5	28	14.0	8	4.0	31	15.5	2	1.0	2	1.0
Western	164	114	69.5	36	22.0	2	1.2	12	7.3	0	0.0	0	0.0
Iowa													
Northern	303	208	68.6	46	15.2	4	1.3	31	10.2	0	0.0	14	4.6
Southern	219	102	46.6	52	23.7	5	2.3	55	25.1	0	0.0	5	2.3
Minnesota	454	241	53.1	84	18.5	26	5.7	100	22.0	0	0.0	3	0.7
Missouri													
Eastern	848	561	66.2	164	19.3	36	4.2	76	9.0	1	0.1	10	1.2
Western	601	403	67.1	109	18.1	4	0.7	73	12.1	0	0.0	12	2.0
Nebraska	744	486	65.3	158	21.2	41	5.5	53	7.1	0	0.0	6	0.8
North Dakota	177	123	69.5	39	22.0	4	2.3	11	6.2	0	0.0	0	0.0
South Dakota	377	279	74.0	18	4.8	12	3.2	44	11.7	7	1.9	17	4.5

CIRCUIT District	TOTAL	SENTENCED WITHIN GUIDELINE RANGE		GOVERNMENT SPONSORED BELOW THE GUIDELINE RANGE		DEPARTURES BELOW THE GUIDELINE RANGE		OTHERWISE BELOW THE GUIDELINE RANGE		DEPARTURES ABOVE THE GUIDELINE RANGE		OTHERWISE ABOVE THE GUIDELINE RANGE	
		%		%		%		%		%		%	
<b>NINTH CIRCUIT</b>	<b>9,341</b>	<b>4,377</b>	<b>46.9</b>	<b>3,695</b>	<b>39.6</b>	<b>318</b>	<b>3.4</b>	<b>794</b>	<b>8.5</b>	<b>32</b>	<b>0.3</b>	<b>125</b>	<b>1.3</b>
Alaska	178	103	57.9	31	17.4	2	1.1	38	21.3	0	0.0	4	2.2
Arizona	3,179	909	28.6	1,993	62.7	93	2.9	117	3.7	24	0.8	43	1.4
California													
Central	399	358	89.7	19	4.8	2	0.5	20	5.0	0	0.0	0	0.0
Eastern	749	396	52.9	270	36.0	18	2.4	58	7.7	1	0.1	6	0.8
Northern	543	339	62.4	111	20.4	17	3.1	66	12.2	0	0.0	10	1.8
Southern	1,563	811	51.9	544	34.8	91	5.8	108	6.9	0	0.0	9	0.6
Guam	69	30	43.5	31	44.9	4	5.8	4	5.8	0	0.0	0	0.0
Hawaii	400	192	48.0	126	31.5	15	3.8	60	15.0	0	0.0	7	1.8
Idaho	183	69	37.7	84	45.9	7	3.8	21	11.5	0	0.0	2	1.1
Montana	309	232	75.1	35	11.3	10	3.2	15	4.9	4	1.3	13	4.2
Nevada	371	266	71.7	48	12.9	9	2.4	40	10.8	0	0.0	8	2.2
Northern Mariana Islands	23	17	73.9	5	21.7	0	0.0	0	0.0	0	0.0	1	4.3
Oregon	437	234	53.5	97	22.2	18	4.1	81	18.5	1	0.2	6	1.4
Washington													
Eastern	322	191	59.3	63	19.6	10	3.1	47	14.6	2	0.6	9	2.8
Western	616	230	37.3	238	38.6	22	3.6	119	19.3	0	0.0	7	1.1
<b>TENTH CIRCUIT</b>	<b>4,507</b>	<b>2,970</b>	<b>65.9</b>	<b>1,048</b>	<b>23.3</b>	<b>130</b>	<b>2.9</b>	<b>312</b>	<b>6.9</b>	<b>6</b>	<b>0.1</b>	<b>41</b>	<b>0.9</b>
Colorado	501	261	52.1	150	29.9	22	4.4	60	12.0	2	0.4	6	1.2
Kansas	544	364	66.9	109	20.0	13	2.4	50	9.2	2	0.4	6	1.1
New Mexico	2,048	1,320	64.5	603	29.4	43	2.1	74	3.6	1	0.0	7	0.3
Oklahoma													
Eastern	82	73	89.0	7	8.5	1	1.2	1	1.2	0	0.0	0	0.0
Northern	173	142	82.1	19	11.0	0	0.0	7	4.0	1	0.6	4	2.3
Western	191	136	71.2	19	9.9	6	3.1	21	11.0	0	0.0	9	4.7
Utah	780	555	71.2	93	11.9	40	5.1	86	11.0	0	0.0	6	0.8
Wyoming	188	119	63.3	48	25.5	5	2.7	13	6.9	0	0.0	3	1.6
<b>ELEVENTH CIRCUIT</b>	<b>4,904</b>	<b>3,330</b>	<b>67.9</b>	<b>939</b>	<b>19.1</b>	<b>135</b>	<b>2.8</b>	<b>400</b>	<b>8.2</b>	<b>19</b>	<b>0.4</b>	<b>81</b>	<b>1.7</b>
Alabama													
Middle	166	101	60.8	58	34.9	2	1.2	4	2.4	1	0.6	0	0.0
Northern	364	219	60.2	95	26.1	5	1.4	32	8.8	2	0.5	11	3.0
Southern	280	181	64.6	69	24.6	7	2.5	18	6.4	0	0.0	5	1.8
Florida													
Middle	1,257	804	64.0	307	24.4	38	3.0	93	7.4	1	0.1	14	1.1
Northern	259	185	71.4	48	18.5	4	1.5	12	4.6	3	1.2	7	2.7
Southern	1,497	1,117	74.6	164	11.0	38	2.5	157	10.5	5	0.3	16	1.1
Georgia													
Middle	314	216	68.8	71	22.6	0	0.0	18	5.7	1	0.3	8	2.5
Northern	535	351	65.6	93	17.4	28	5.2	55	10.3	2	0.4	6	1.1
Southern	232	156	67.2	34	14.7	13	5.6	11	4.7	4	1.7	14	6.0

<sup>1</sup>Of the 56,086 cases, 88 cases with no analogous guidelines were excluded from the table. Of the remaining 55,998 cases, 1,462 were excluded due to missing departure or variance information.

Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, (data extracted December 21, 2005; table prepared January 5, 2006). Summary numbers may not add up to their component parts due to rounding

**SUBSTANTIAL ASSISTANCE CASES: DEGREE OF DEPARTURE  
FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>**

**Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on December 21, 2005**

PRIMARY OFFENSE	n	Median Sentence in Months <sup>2</sup>	DEGREE OF DECREASE FOR SUBSTANTIAL ASSISTANCE	
			Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
<b>TOTAL</b>	<b>7,768</b>	<b>36.0</b>	<b>28.0</b>	<b>49.9</b>
<b>Murder</b>	8	126.0	210.0	62.4
<b>Manslaughter</b>	0	--	--	--
<b>Kidnapping/Hostage Taking</b>	3	108.0	115.5	47.1
<b>Sexual Abuse</b>	4	34.5	18.5	35.4
<b>Assault</b>	11	42.0	18.0	31.4
<b>Robbery</b>	146	51.0	31.0	35.8
<b>Arson</b>	8	27.0	22.5	50.0
<b>Drugs - Trafficking</b>	4,974	50.0	39.0	45.4
<b>Drugs - Communication Facility</b>	49	4.9	15.0	85.4
<b>Drugs - Simple Possession</b>	10	25.3	10.0	40.7
<b>Firearms</b>	670	36.5	24.0	46.8
<b>Burglary/B&amp;E</b>	1	--	--	--
<b>Auto Theft</b>	9	14.0	18.0	50.4
<b>Larceny</b>	106	5.5	10.0	66.7
<b>Fraud</b>	761	2.0	12.0	91.3
<b>Embezzlement</b>	13	0.0	12.0	100.0
<b>Forgery/Counterfeiting</b>	66	2.0	10.0	87.1
<b>Bribery</b>	48	6.0	15.5	77.5
<b>Tax</b>	73	0.0	10.0	100.0
<b>Money Laundering</b>	181	12.0	21.0	62.5
<b>Racketeering/Extortion</b>	136	28.5	30.0	52.6
<b>Gambling/Lottery</b>	16	0.0	8.0	100.0
<b>Civil Rights</b>	8	14.0	11.5	40.4
<b>Immigration</b>	245	8.0	9.0	50.0
<b>Pornography/Prostitution</b>	41	41.0	21.0	35.1
<b>Prison Offenses</b>	7	2.0	6.0	66.7
<b>Administration of Justice Offenses</b>	100	0.0	12.0	100.0
<b>Environmental/Wildlife</b>	13	0.0	10.0	100.0
<b>National Defense</b>	5	0.4	18.0	98.0
<b>Antitrust</b>	6	2.0	7.5	83.3
<b>Food &amp; Drug</b>	6	0.0	12.0	99.9
<b>Other Miscellaneous Offenses</b>	44	1.5	12.5	88.6

<sup>1</sup>Of the 56,086 cases, 8,093 received a substantial assistance departure. Of these, 7,820 had complete guideline application information. An additional 34 cases were excluded due to several logical criteria. Of the remaining 7,786 cases, 18 were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (18).

<sup>2</sup>Cases with guideline minimums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.

**GOVERNMENT SPONSORED DOWNWARD DEPARTURE CASES: DEGREE OF  
DEPARTURE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>**  
**Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on December 21, 2005**

PRIMARY OFFENSE	n	Median Sentence in Months <sup>2</sup>	DEGREE OF DECREASE FOR GOVERNMENT SPONSORED DOWNWARD DEPARTURE <sup>3</sup>	
			Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
<b>TOTAL</b>	<b>5,008</b>	<b>24.0</b>	<b>9.0</b>	<b>27.1</b>
<b>Murder</b>	3	57.0	40.0	41.0
<b>Manslaughter</b>	0	--	--	--
<b>Kidnapping/Hostage Taking</b>	1	--	--	--
<b>Sexual Abuse</b>	22	48.0	24.7	35.9
<b>Assault</b>	30	20.5	11.5	40.3
<b>Robbery</b>	22	77.5	24.0	25.9
<b>Arson</b>	2	--	--	--
<b>Drugs - Trafficking</b>	1,257	27.0	10.0	33.3
<b>Drugs - Communication Facility</b>	10	11.6	29.4	71.7
<b>Drugs - Simple Possession</b>	0	--	--	--
<b>Firearms</b>	185	30.0	12.0	27.1
<b>Burglary/B&amp;E</b>	1	--	--	--
<b>Auto Theft</b>	1	--	--	--
<b>Larceny</b>	20	2.5	10.0	83.3
<b>Fraud</b>	93	8.0	10.0	58.3
<b>Embezzlement</b>	8	0.0	9.0	99.4
<b>Forgery/Counterfeiting</b>	15	6.0	12.0	58.3
<b>Bribery</b>	6	5.0	9.5	65.8
<b>Tax</b>	11	5.0	10.0	66.7
<b>Money Laundering</b>	28	17.0	7.5	42.9
<b>Racketeering/Extortion</b>	28	36.0	6.0	19.3
<b>Gambling/Lottery</b>	5	0.0	10.0	100.0
<b>Civil Rights</b>	0	--	--	--
<b>Immigration</b>	3,159	24.0	7.0	25.0
<b>Pornography/Prostitution</b>	24	39.0	17.0	23.7
<b>Prison Offenses</b>	7	12.0	5.0	22.2
<b>Administration of Justice Offenses</b>	32	10.0	9.6	47.5
<b>Environmental/Wildlife</b>	4	5.0	7.5	58.3
<b>National Defense</b>	2	--	--	--
<b>Antitrust</b>	1	--	--	--
<b>Food &amp; Drug</b>	3	16.0	12.0	23.3
<b>Other Miscellaneous Offenses</b>	28	0.5	11.0	97.9

<sup>1</sup>Of the 56,086 cases, 5,228 received a government sponsored downward departure. Of these, 5,060 had complete guideline application information. An additional 40 cases were excluded due to several logical criteria. Of the remaining 5,020 cases, 12 were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (12).

<sup>2</sup>Cases with guideline minimums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.

**OTHER DOWNWARD DEPARTURE CASES: DEGREE OF DEPARTURE  
FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>**

**Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on December 21, 2005**

PRIMARY OFFENSE	n	Median Sentence in Months <sup>2</sup>	DEGREE OF DECREASE FOR OTHER DOWNWARD DEPARTURE <sup>3</sup>	
			Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
<b>TOTAL</b>	<b>1,671</b>	<b>24.0</b>	<b>12.0</b>	<b>34.2</b>
<b>Murder</b>	3	70.0	27.0	27.8
<b>Manslaughter</b>	4	24.0	11.0	26.8
<b>Kidnapping/Hostage Taking</b>	0	--	--	--
<b>Sexual Abuse</b>	9	18.0	9.0	19.6
<b>Assault</b>	25	12.0	9.0	42.4
<b>Robbery</b>	53	60.0	21.0	25.0
<b>Arson</b>	1	--	--	--
<b>Drugs - Trafficking</b>	559	60.0	17.0	27.2
<b>Drugs - Communication Facility</b>	6	6.0	24.0	87.4
<b>Drugs - Simple Possession</b>	3	12.0	22.0	67.5
<b>Firearms</b>	233	21.0	11.0	33.3
<b>Burglary/B&amp;E</b>	1	--	--	--
<b>Auto Theft</b>	1	--	--	--
<b>Larceny</b>	33	0.0	8.0	100.0
<b>Fraud</b>	166	1.0	10.5	91.9
<b>Embezzlement</b>	13	1.0	9.0	94.4
<b>Forgery/Counterfeiting</b>	21	0.0	10.0	100.0
<b>Bribery</b>	4	0.0	7.0	100.0
<b>Tax</b>	32	0.0	10.0	100.0
<b>Money Laundering</b>	23	18.0	10.0	42.9
<b>Racketeering/Extortion</b>	17	24.0	12.0	34.1
<b>Gambling/Lottery</b>	2	--	--	--
<b>Civil Rights</b>	2	--	--	--
<b>Immigration</b>	354	24.0	8.0	26.8
<b>Pornography/Prostitution</b>	40	16.0	19.5	62.7
<b>Prison Offenses</b>	7	18.0	6.0	25.0
<b>Administration of Justice Offenses</b>	38	4.0	10.0	67.0
<b>Environmental/Wildlife</b>	2	--	--	--
<b>National Defense</b>	2	--	--	--
<b>Antitrust</b>	1	--	--	--
<b>Food &amp; Drug</b>	0	--	--	--
<b>Other Miscellaneous Offenses</b>	16	0.5	10.0	98.2

<sup>1</sup>Of the 56,086 cases, 1,772 received an other downward departure. Of these, 1,676 had complete guideline application information. An additional one cases were excluded due to several logical criteria. Of the remaining 1,675 cases, four were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (4).

<sup>2</sup>Cases with guideline minimums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.



**OTHERWISE BELOW GUIDELINE RANGE CASES: DEGREE OF VARIANCE  
FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>**

**Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on December 21, 2005**

PRIMARY OFFENSE	n	Median Sentence in Months <sup>2</sup>	DEGREE OF DECREASE FOR OTHERWISE BELOW GUIDELINE RANGE <sup>3</sup>	
			Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
<b>TOTAL</b>	<b>4,860</b>	<b>27.0</b>	<b>12.0</b>	<b>33.3</b>
<b>Murder</b>	9	97.0	24.5	20.2
<b>Manslaughter</b>	3	20.0	10.0	33.3
<b>Kidnapping/Hostage Taking</b>	1	--	--	--
<b>Sexual Abuse</b>	26	39.0	21.0	33.3
<b>Assault</b>	41	12.0	9.0	44.4
<b>Robbery</b>	112	57.0	15.5	20.5
<b>Arson</b>	2	--	--	--
<b>Drugs - Trafficking</b>	1,779	60.0	19.0	26.7
<b>Drugs - Communication Facility</b>	48	13.0	10.5	34.2
<b>Drugs - Simple Possession</b>	13	15.0	10.0	46.8
<b>Firearms</b>	692	31.0	12.0	28.6
<b>Burglary/B&amp;E</b>	6	4.7	6.0	56.2
<b>Auto Theft</b>	6	30.0	7.0	28.2
<b>Larceny</b>	117	0.0	6.0	100.0
<b>Fraud</b>	553	5.0	9.5	67.1
<b>Embezzlement</b>	51	0.0	8.0	99.6
<b>Forgery/Counterfeiting</b>	72	2.8	8.0	77.7
<b>Bribery</b>	21	0.0	12.0	100.0
<b>Tax</b>	95	1.0	10.0	83.8
<b>Money Laundering</b>	105	15.0	12.0	51.4
<b>Racketeering/Extortion</b>	45	42.0	21.0	39.6
<b>Gambling/Lottery</b>	8	0.0	6.0	100.0
<b>Civil Rights</b>	7	28.0	14.5	33.7
<b>Immigration</b>	735	19.0	9.0	33.2
<b>Pornography/Prostitution</b>	134	30.0	16.0	34.8
<b>Prison Offenses</b>	19	14.0	6.0	40.0
<b>Administration of Justice Offenses</b>	79	6.0	10.0	63.1
<b>Environmental/Wildlife</b>	12	0.0	6.0	100.0
<b>National Defense</b>	2	--	--	--
<b>Antitrust</b>	0	--	--	--
<b>Food &amp; Drug</b>	3	5.0	7.0	58.3
<b>Other Miscellaneous Offenses</b>	64	0.0	9.5	100.0

<sup>1</sup>Of the 56,086 cases, 5,215 were otherwise below the guideline range and did not cite reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual. Of these, 4,880 had complete guideline application information. An additional seven cases were excluded due to several logical criteria. Of the remaining 4,873 cases, 13 were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (13).

<sup>2</sup>Cases with guideline minimums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.

**UPWARD DEPARTURE CASES: DEGREE OF DEPARTURE  
FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>**

**Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on December 21, 2005**

PRIMARY OFFENSE	n	Median Sentence in Months <sup>2</sup>	DEGREE OF INCREASE FOR UPWARD DEPARTURE <sup>3</sup>	
			Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
<b>TOTAL</b>	<b>133</b>	<b>60.0</b>	<b>14.0</b>	<b>33.3</b>
<b>Murder</b>	3	228.0	105.0	77.8
<b>Manslaughter</b>	4	96.0	18.0	23.1
<b>Kidnapping/Hostage Taking</b>	0	--	--	--
<b>Sexual Abuse</b>	2	--	--	--
<b>Assault</b>	4	91.5	37.5	130.3
<b>Robbery</b>	3	150.0	35.0	31.4
<b>Arson</b>	0	--	--	--
<b>Drugs - Trafficking</b>	15	48.0	9.0	22.2
<b>Drugs - Communication Facility</b>	0	--	--	--
<b>Drugs - Simple Possession</b>	1	--	--	--
<b>Firearms</b>	27	90.0	21.0	24.3
<b>Burglary/B&amp;E</b>	1	--	--	--
<b>Auto Theft</b>	0	--	--	--
<b>Larceny</b>	1	--	--	--
<b>Fraud</b>	22	54.0	14.0	45.7
<b>Embezzlement</b>	0	--	--	--
<b>Forgery/Counterfeiting</b>	4	48.0	22.0	120.8
<b>Bribery</b>	0	--	--	--
<b>Tax</b>	0	--	--	--
<b>Money Laundering</b>	0	--	--	--
<b>Racketeering/Extortion</b>	1	--	--	--
<b>Gambling/Lottery</b>	0	--	--	--
<b>Civil Rights</b>	0	--	--	--
<b>Immigration</b>	30	18.0	6.0	27.4
<b>Pornography/Prostitution</b>	9	180.0	63.0	64.7
<b>Prison Offenses</b>	0	--	--	--
<b>Administration of Justice Offenses</b>	4	24.0	6.0	50.0
<b>Environmental/Wildlife</b>	0	--	--	--
<b>National Defense</b>	0	--	--	--
<b>Antitrust</b>	0	--	--	--
<b>Food &amp; Drug</b>	0	--	--	--
<b>Other Miscellaneous Offenses</b>	2	--	--	--

<sup>1</sup>Of the 56,086 cases, 140 received an upward departure. Of these, 135 had complete guideline application information. An additional one cases were excluded due to several logical criteria. Of the remaining 134 cases, one were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (1).

<sup>2</sup>Cases with guideline maximums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.

**OTHERWISE ABOVE GUIDELINE RANGE CASES: DEGREE OF VARIANCE  
FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>**

**Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on December 21, 2005**

PRIMARY OFFENSE	n	DEGREE OF INCREASE FOR OTHERWISE ABOVE GUIDELINE RANGE <sup>3</sup>		
		Median Sentence in Months <sup>2</sup>	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
<b>TOTAL</b>	<b>674</b>	<b>58.5</b>	<b>13.0</b>	<b>37.8</b>
<b>Murder</b>	6	234.0	56.0	32.1
<b>Manslaughter</b>	4	56.5	14.5	32.7
<b>Kidnapping/Hostage Taking</b>	0	--	--	--
<b>Sexual Abuse</b>	18	196.0	37.5	33.7
<b>Assault</b>	22	60.0	21.5	42.3
<b>Robbery</b>	17	168.0	34.0	34.4
<b>Arson</b>	2	--	--	--
<b>Drugs - Trafficking</b>	99	78.0	20.0	33.3
<b>Drugs - Communication Facility</b>	2	--	--	--
<b>Drugs - Simple Possession</b>	13	12.0	6.0	100.0
<b>Firearms</b>	116	72.0	15.0	31.9
<b>Burglary/B&amp;E</b>	0	--	--	--
<b>Auto Theft</b>	3	36.0	18.0	100.0
<b>Larceny</b>	30	27.0	9.5	71.4
<b>Fraud</b>	110	43.0	10.0	36.5
<b>Embezzlement</b>	3	36.0	12.0	46.3
<b>Forgery/Counterfeiting</b>	10	60.0	16.5	86.6
<b>Bribery</b>	0	--	--	--
<b>Tax</b>	6	36.0	9.0	38.1
<b>Money Laundering</b>	9	56.9	14.0	38.7
<b>Racketeering/Extortion</b>	13	84.0	21.0	30.6
<b>Gambling/Lottery</b>	0	--	--	--
<b>Civil Rights</b>	0	--	--	--
<b>Immigration</b>	127	36.0	7.0	33.3
<b>Pornography/Prostitution</b>	33	120.0	30.0	40.0
<b>Prison Offenses</b>	6	41.5	6.5	31.3
<b>Administration of Justice Offenses</b>	12	33.0	8.0	39.3
<b>Environmental/Wildlife</b>	1	--	--	--
<b>National Defense</b>	0	--	--	--
<b>Antitrust</b>	0	--	--	--
<b>Food &amp; Drug</b>	0	--	--	--
<b>Other Miscellaneous Offenses</b>	12	24.0	9.5	50.0

<sup>1</sup>Of the 56,086 cases, 758 were otherwise below the guideline range and did not cite reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual. Of these, 698 had complete guideline application information. An additional 23 cases were excluded due to several logical criteria. Of the remaining 675 cases, one were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (1).

<sup>2</sup>Cases with guideline maximums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.